

VZCZCXRO2201
RR RUEHBC RUEHDE RUEHDH RUEHKUK RUEHROV
DE RUEHAM #2054/01 2530700
ZNR UUUUU ZZH
R 100700Z SEP 09
FM AMEMBASSY AMMAN
TO RUEHC/SECSTATE WASHDC 5910
INFO RUEHEE/ARAB LEAGUE COLLECTIVE

UNCLAS SECTION 01 OF 03 AMMAN 002054

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [PGOV](#) [PREL](#) [CASC](#) [KWMN](#) [JO](#)
SUBJECT: LET MY PEOPLE GO: TRAVEL HOLDS IN JORDAN

¶1. (SBU) Summary: Travel holds are the legal mechanism which allow Jordanian officials to prevent travelers from departing the country. The legal framework for travel holds in Jordan is full of loopholes. These allow abuses of the system which have the effect of restricting the travel of Jordanians and others, often with flimsy legal reasoning. Travel holds are generated by judges, prosecutors, and police officials, yet there is no uniform standard of evidence for their application. It is difficult to challenge a travel hold, although temporary stays are often granted. Border officials have little legal authority to overcome a hold. There is a significant gap between the legal authority to impose travel holds and their implementation in practice. As a consequence, the Embassy's ability to assist American citizens is greatly impeded by the lack of a unified set of regulations and internal controls on their implementation.
End Summary.

Let My People Go

¶2. (SBU) Travel holds are a primary concern of Jordanian human rights lawyers, womens' rights activists, and the Embassy's own American Citizen Services unit. While most of the travel holds issued by Jordanian courts and security authorities can be theoretically tied to a justification under Jordanian law, there are loopholes which allow for abuse of the system. Inquiries about travel holds happen at least daily at the Embassy and account for a large volume of duty officer calls. Lawyers on the Embassy's list say that they take on at least one travel hold case every week and advise many others informally on how the system works. This cable lays out the system of travel holds in Jordan as a reference for the many instances in which they come into play, including apostasy cases, custody disputes involving American citizens, and cases involving the rights of women.

Court-Ordered Travel Holds

¶3. (U) Most travel holds in Jordan are issued by judicial authorities, including criminal courts, civil courts, state security courts, and religious courts. Civil and criminal courts can issue travel holds for many reasons, but typically do so to keep indicted criminals and key witnesses from fleeing the country. State security courts routinely issue travel holds for indicted figures, but for most state security cases the defendants are already in detention, making a travel hold moot. Religious courts (which are divided into shari'a courts for Muslims and church tribunals for Christians) can issue travel holds for cases involving custody of children, divorce settlements, alimony payments, or inheritance questions.

¶4. (U) Court-ordered travel holds are never automatic in Jordan. They must be requested by either the defense or prosecution, who then must provide a justification to the presiding judge for discontinuing a citizen's ability to travel. Travel holds on children involved in custody cases are considered a pro-forma exercise. By law in Jordan, both

parents have the right to visit their children for at least two hours per week, making the imposition of a travel hold a near certainty when custody is an issue. Placing a travel hold in court on an adult without children is considerably more difficult. When the custody of children is not an issue, judges will often ask for witnesses to explain why a travel hold is necessary.

¶15. (U) Prosecutors are also allowed to place travel holds without the assent of a judge. They must provide a reason for doing so, but typically the required reasoning is far less than a judge would require. According to police personnel we spoke to, most travel holds issued by prosecutors deal with financial disputes and would not hold water if challenged before a judge.

¶16. (U) Once a travel hold has been ordered by a court or prosecutor, the court clerk produces a writ which is transferred to the Public Security Directorate (PSD) office in the province where the court is located. Each provincial PSD office has an "executive judgments" section which is responsible for enforcing court orders. Once this office receives the order for a travel hold, they enter it into the PSD computer system, which is accessible at all police stations and border crossings in Jordan.

Missing Persons Reports

¶17. (U) Another way to effectively impose a travel hold in Jordan is to file a missing persons report. Every police station in Jordan is equipped to handle reports of missing

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persons, which can be accomplished and entered into the PSD system within a matter of hours. In order to file a missing persons report, the filer must be part of the missing person's immediate family (which includes aunts, uncles, and cousins in the Jordanian system), and there must have been no contact for a minimum of forty-eight hours. The paperwork of a missing persons report requires a statement of circumstances. The police are obliged to attempt to contact the subject of a missing persons report before entering it into the computer system. According to police officials we talked to, that attempt usually goes no further than a call to the contact number provided by the filer of the report.

¶18. (U) Missing persons reports become effective travel holds once they are entered into the police database. Unlike court-ordered travel holds, however, they appear in the PSD system as a "request to appear" at the police station that filed the report rather than as a court-ordered writ which specifically prevents travel. Such "requests to appear" are a common administrative and legal procedure in Jordan, and are not confined to missing persons cases. Citizens can be officially "requested to appear" for other reasons such as tax payment issues, vehicle accidents, or simple requests for information from government agencies.

Challenging Travel Holds

¶19. (U) Travel holds issued by a judge can be challenged once they are in place, but it is a difficult and time-consuming process. Since the courts require a justification before imposing a travel hold, a similar justification must be offered if it is to be removed. The courts often require new information or a compelling reason to lift a travel hold permanently, but such cases are rare and subject to overturn on appeal. Even when travel holds are lifted by the courts, the opposing party will often attempt to impose a prosecutorial travel hold in its place. Travel holds imposed by prosecutors can also be challenged in court, but it rarely happens in practice. Since prosecutor-ordered travel holds typically deal with smaller issues, they are usually resolved through the mediation of a family member or by prosecutors

themselves.

¶10. (U) While lifting a court-ordered travel hold permanently can be difficult, temporary lifting of a hold for specific trips is more common. Medical necessity, family emergencies, or even financial obligations can be offered as reasons for a one time only lifting of travel holds, with the understanding that the trip will be limited in time. The one catch to a temporary lifting of a travel hold is that courts and prosecutors often require a bond or other financial guarantee from the person who wishes to travel, particularly in divorce cases, inheritance disputes, and other legal actions involving financial issues.

¶11. (U) Missing persons reports cannot be challenged per se, they can only be resolved. Once a person reported as missing appears at the police station where the report was filed, it is automatically lifted and the person is then theoretically free to travel. In practice, however, police often detain those who attempt to resolve missing persons reports and require family members to appear at the police station to annul the report.

¶12. (U) If the reasoning behind a travel hold (whether issued by a court or as a missing persons report) is purposely falsified, it can place the requester of a travel hold in legal jeopardy. Police officials who regularly implement travel holds told us that the subject of a travel hold can countersue if they can prove that a false statement led to the improper placement of a travel hold. The penalty for such an offense can result in up to three months in jail.

Travel Holds at the Border

¶13. (U) When the subject of a travel hold attempts to cross a border, the PSD system will alert the immigration official to a hit on the person's record. In the case of a court-ordered travel hold, a citation of the writ and its contents appear in the system. Missing persons reports appear with varying levels of detail as to the circumstances of their filing, but always contain contact information from the police station which entered the report into the system. In the case of a court-ordered travel hold, the immigration official has no room for maneuver -- the person's ability to leave the country is restricted, and the law does not allow for further interpretation.

¶14. (SBU) In the case of missing persons, however, immigration officials have several possible ways of dealing

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with the situation. The most common reaction to a missing persons report at the border is to place the person under preventive custody and contact the police station that filed the report. The police usually then contact the missing person's relatives and determine a course of action accordingly. Immigration officials also have the discretion to disregard the report and let a person reported as missing travel, however. According to police officials, this happens most often when a reasonable explanation can be offered as to why the report was either a mistake or a deliberate abuse of the system.

Lifting Travel Holds

¶15. (U) Once a court case has been resolved and a travel hold is no longer necessary, judges will send an official notification ("kef talab" in Arabic) to the PSD ordering an end to the hold. The kef talab is issued to the subject of the hold, who must then deliver it in person to the PSD branch which entered the hold in the system. The subjects of travel holds retain a copy of the kef talab to present at the border if necessary during their next trip outside of the country. Lawyers and NGO activists we talked to complained

that travel holds are not always lifted promptly by PSD, and sometimes require a great deal of follow-up to make sure that they are enforced.

Comment

¶16. (SBU) While there are established practices and legal norms that govern the use of travel holds in Jordan, in practice the system often falls under the influence of traditional family and tribal connections ("wasta"). One family member in PSD who is willing to enter a travel hold into the system can trump a series of court orders or benevolent immigration officials. The lack of internal controls on the placement of travel holds frequently results in families exerting undue influence on the ability of women and dual nationals to travel.

¶17. (SBU) Travel holds in Jordan are a pernicious issue that frequently result in complicated American Citizen Services cases. The Embassy's ability to assist American citizens is greatly impeded by the lack of a unified set of regulations on travel holds and lack of oversight in their implementation. While our connections within PSD can help determine the status of a travel hold, we cannot remove travel holds on behalf of American citizens or dual nationals. This often creates difficult situations where our need to assist American citizens runs counter to the Jordanian legal system.

Beecroft